

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**C.P. No.D-7395 of 2021**

[M/s Deltacom Technologies & Services v. Federation of Pakistan & others]

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE(S).</u>
-------------	--

Priority

1. For hearing of CMA No.32478/2021.
2. For hearing of min case.

.....

**Dated 20.03.2023**

Mr. Imran Iqbal Khan, Advocate for the petitioner.  
Mr. Imran Ahmed Metlo, Advocate for respondent No.2.  
Mr. Irfan Mir Halepota, Advocate for respondent No.3.  
Mr. Ayazuddin Qureshi, Assistant Attorney General.

.....

Petitioner imported 1809 cartons of Thermal Paper Rolls. Respondent No.2 applied valuation ruling and assessed the value at USD-2.50 per kilogram instead of USD-1.0 per kilogram, as declared. Petitioner contested the assessment and consequently the goods were released by respondent No.2 on provisional basis under Section 81 of the Customs Act, 1969 on 01.03.2021. The differential amount of duties and taxes was secured by pay order dated 26.02.2021 for Rs.4,007,879/-. The matter perhaps was referred to valuation for determining actual customs value under the law. The petitioner was in contact with the director of customs valuation being respondent No.3 and has contested the valuation ruling No.1388/2019 being applied and for the assistance submitted relevant documents in this regard. The petitioner has not received any reply in response thereto. This final determination is to be made within the time prescribed under Section 81 of the ibid Act from the date of provisional determination. Respondent No.2 has not determined it within the prescribed period from the date of the provisional determination that is 01.03.2021 nor any order of assessment was issued, refunded or any process of recovery of amount was initiated.

The only defence that was taken by respondent No.2 was that since petitioner has moved an application under Section 25-A of the ibid Act which has prevented respondent No.2 from final determination under Section 81 of the ibid Act. Though this is denied by Mr. Imran Iqbal, learned counsel for the petitioner and has relied upon a letter whereby they have reminded the fact that they have to finalize the assessment within the prescribed time, yet they have failed to finalize assessment and it calls for the application of Section 81 for the release of the securities lying with the department. Petitioner's counsel has relied upon a judgment of M/s Spectrum Enterprises passed by this Court in C.P.No.D-5674/2020 wherein on the exact facts and circumstances, on account of valuation of respondent No.2 issued final assessment, the securities were released.

We do not see any reason to form a different view than framed in the above referred case and this being a situation, the petition is allowed in terms of the above order with no order as to costs. Consequently, the security provided at the time of provisional determination by the petitioner be released on proper verification and identification.

JUDGE

JUDGE

Ayaz Gul